

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i> Bhikhabhai Patel, et al)	
District 7, Map 55E, Group D, Control Map 55D,)	
Parcel 11.01)	Madison County
Commercial Property)	
Tax year 2007)	

INITIAL DECISION AND ORDER

Statement of the Case

The Madison County Board of Equalization has valued the subject property for tax purposes as follows:

LAND VALUE	IMPR. VALUE	TOTAL VALUE	ASSESSMENT
\$447,200	\$0	\$447,200	\$178,880

On July 24, 2007, the State Board of Equalization ("State Board") received an appeal by the property owners.

The undersigned administrative judge conducted a hearing of this matter on September 19, 2007 in Jackson. The taxpayers were represented by registered agent Larry Berretta, of Property Tax Management, LLC (Memphis). Madison County Assessor of Property Frances Hunley, assisted by Deputy Assessor Sherri Marbury, appeared on her own behalf. Also in attendance at the hearing was Ray Weatherly, TCA, of the State Division of Property Assessments.

Findings of Fact and Conclusions of Law

The 1.8-acre parcel in question is located at 79 Innsdale Cove (off Vann Drive), in a rapidly-developing commercial area of Jackson near an Interstate 40 interchange. Like other properties in the immediate vicinity, this vacant lot is encumbered by a drainage easement. The appellants purchased the subject property from Cay Enterprises, LLC for \$335,163 on March 23, 2006.¹ Previously, in 1998, the property had sold for \$440,000.

Relying on the appellants' recent purchase price, Mr. Berretta sought a reduced appraisal of \$335,200. Although his research revealed no apparent relationship between the seller and the buyers, he did not know whether the subject property had actually been listed for sale.

In support of the disputed land value, Ms. Marbury submitted an analysis of three sales of nearby lots on Vann Drive that occurred within two years of the January 1, 2007 assessment date. The comparable sale prices ranged from \$7.00 per square foot (for the somewhat larger

¹This transaction was coded as a "qualified" sale on the official (2007) property record card.

#1324) to \$13.75 per square foot (for the 0.77-acre #1142). The subject property is currently appraised at approximately \$5.67 per square foot.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values....”

As the party seeking to change the present valuation of the subject property, the taxpayers have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Generally, “a bona fide sale of the subject property is considered the best evidence of market value.” International Association of Assessing Officers, *Property Appraisal and Assessment Administration* (1990), p. 153. Yet, as the Assessment Appeals Commission has observed, “there is considerable risk in pointing to a single sale as conclusive evidence of market value, even a sale of the property under consideration.” Mewa Singh Mundi (Washington County, Tax Years 1991 and 1992, Final Decision and Order, December 17, 1993).

The instant case seemingly illustrates the wisdom of this cautionary pronouncement. Standing alone, the amount paid for the subject property in 2006 might well support the appellants’ requested value. In the light of the Assessor’s largely unrefuted comparative sales approach, however, that single sale appears to be an outlier. To be sure, the aforementioned drainage easement may limit the owner’s range of options for development of the parcel in question. By Mr. Berretta’s own admission, though, the appellants’ lot is hardly unique in that respect.

Conceivably, firsthand testimony of one or more of the property owners might have been sufficient to explain the markedly lower sale price for the subject property. The evidence of record, on the other hand, compels the administrative judge to recommend affirmation of the value determined by the county board of equalization.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2007:

LAND VALUE	IMPR. VALUE	TOTAL VALUE	ASSESSMENT
\$447,200	\$0	\$447,200	\$178,880

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within**

thirty (30) days from the date the initial decision is sent.” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 12th day of October, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Larry Berretta, of Property Tax Management, LLC
Ray Weatherly, TCA, Supervisor, Jackson Division of Property Assessments
Frances Hunley, Madison County Assessor of Property

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